

CONVERTED, APPEAL

**U.S. Bankruptcy Court  
Western District of Texas (El Paso)  
Bankruptcy Petition #: 20-31055-hcm**

*Assigned to:* Bankruptcy Judge H. Christopher Mott  
Chapter 7  
Previous chapter 11  
Original chapter 11  
Voluntary

*Date filed:* 10/06/2020  
*Date converted:* 05/13/2021  
*341 meeting:* 06/28/2021

**Debtor**  
**Double H Transportation LLC**  
14259 Rattler Point Dr.  
El Paso, TX 79938  
EL PASO-TX  
Tax ID / EIN: 14-7466325

represented by **Michael R. Nevarez**  
The Law Offices of Michael R. Nevarez  
P.O. Box 12247  
El Paso, TX 79913  
(915) 225-2255  
Fax : (915) 845-3405  
Email: [MNevarez@LawOfficesMRN.com](mailto:MNevarez@LawOfficesMRN.com)

**Trustee**  
**Brad W. Odell**  
Mullin Hoard & Brown, LLP  
1500 Broadway, Suite 700  
Lubbock, TX 79401  
(806) 765-7491

represented by **Brad W. Odell**  
Mullin Hoard & Brown, LLP  
1500 Broadway, Suite 700  
Lubbock, TX 79401  
(806) 765-7491  
Fax : (806) 765-0553  
Email: [bodell@mhba.com](mailto:bodell@mhba.com)

**Trustee**  
**Ronald E Ingalls**  
PO Box 2867  
Fredericksburg, TX 78624-1927  
(830) 321-0878 X 102

Filing Date	#	Docket Text
05/27/2021	<u>130</u>	Notice of Appeal Filed by Michael R. Nevarez for Debtor Double H Transportation LLC ( Filing Fee:\$ 298.00 ) (Nevarez, Michael) (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit)(related document(s): <u>122</u> Order Denying Confirmation of First Amended Plan of Reorganization (related document(s): <u>97</u> First Amended Plan of Reorganization for Small Business Under Chapter 11 Subchapter V filed by Michael R. Nevarez for Debtor Double H Transportation LLC. (Nevarez, Michael) (related document(s): <u>62</u> Chapter 11 Small Business Subchapter V Plan filed by Michael R. Nevarez for Debtor Double H Transportation LLC.)(Nevarez, Michael) (Order entered on 5/14/2021), <u>123</u> Order Converting Case to Chapter 7. ( Brad W. Odell removed from the case. Trustee Ronald E Ingalls added to the case. ) (Order entered on 5/14/2021), <u>125</u> Order Dismissing Omnibus Objection to Class 4 Claims (related document(s): <u>112</u> Omnibus Objection To Class 4 Claims With Notice Thereof Filed by Michael R. Nevarez for Debtor Double H Transportation LLC (Nevarez, Michael) (related document(s): <u>97</u> First Amended Plan of Reorganization for Small Business Under Chapter 11

			Subchapter V filed by Michael R. Nevarez for Debtor Double H Transportation LLC. (Order entered on 5/14/2021))
05/27/2021			ICC-Fee Terminated for Notice of Appeal( <u>20-31055-hcm</u> ) [appeal,ntcapl] ( 298.00), Amount \$ 298.00, Receipt A22337448 (re:Doc# <u>130</u> ) (U.S. Treasury)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

<b>IN RE:</b>	§	
	§	
<b>DOUBLE H TRANSPORTATION, LLC</b>	§	<b>CASE NO. 20-31055-HCM</b>
	§	
<b>DEBTOR.</b>	§	<b>CHAPTER 11 SUBCHAPTER V</b>

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**DEBTOR’S NOTICE OF APPEAL  
(DOC## 122, 123 AND 125)**

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**TO THE HONORABLE H. CHRISTOPHER MOTT, U.S. BANKRUPTCY JUDGE:**

**COMES NOW** DOUBLE H TRANSPORTATION, LLC (hereinafter referred to as “Appellant” and/or “Debtor”), by and through the undersigned counsel, and hereby timely appeals to the United States District Court of the Western District of Texas, within 14 days after entry of the judgment, order, or decree being appealed, pursuant to 28 U.S.C. §158(a)(1), and in accordance with Fed. R. Bankr. P. 8002(a)(1), from the following Orders of the United States Bankruptcy Court for the Western District of Texas, in the instant case:

- a) “Order Denying Confirmation of First Amended Plan of Reorganization” (DOC#122), signed on May 13, 2021, and entered on May 14, 2021, a copy of which is attached hereto as Exhibit A;
- b) “Order Converting Case to Chapter 7” (DOC#123), signed on May 13, 2021, and entered on May 14, 2021, a copy of which is attached hereto as Exhibit B; and,
- c) Dismissed “Order Granting Omnibus Objection To Class 4 Claims, With Notice Thereof” (DOC#125), signed and entered on May 14, 2021, a copy of which is attached hereto as Exhibit C.

The names of the parties to the above-described Orders, appealed from herein, and the name and address of their attorney, are as follows:

**DEBTOR:**

Double H Transportation, LLC  
14259 Rattler Point Drive  
El Paso, TX 79938

**ATTORNEY FOR DEBTOR:**

Michael R. Nevarez  
The Nevarez Law Firm, PC  
P.O. Box 12247  
El Paso, TX 79913

May 27, 2021

Respectfully submitted,

**THE NEVAREZ LAW FIRM, PC**  
A Professional Corporation  
P.O. Box 12247  
El Paso, Texas 79913  
Telephone: (915) 225-2255  
Facsimiles: (915) 845-3405  
Email: [MNevarcz@LawOfficesMRN.com](mailto:MNevarcz@LawOfficesMRN.com)

/s/ Michael R. Nevarez  
**MICHAEL R. NEVAREZ**  
State of Texas Bar No. 14933400

Attorney for Debtor

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **DEBTOR'S NOTICE OF APPEAL** was served either by electronic means as listed on the Court's ECF noticing system, or by regular first-class mail, postage prepaid, to the following parties in interest, on or before May 27, 2021:

**SUBCHAPTER V TRUSTEE:**

Mr. Brad W. Odell  
1500 Broadway, Suite 700  
Lubbock, TX 78401  
Email: [bodell@mhba.com](mailto:bodell@mhba.com)

**OFFICE OF THE U.S. TRUSTEE:**

Mr. James Rose  
615 E. Houston St., Room 533  
San Antonio, TX 78205  
Email: [James.Rose@usdoj.gov](mailto:James.Rose@usdoj.gov)

**DEBTOR-IN-POSSESSION:**

Double H Transportation, LLC  
14259 Rattler Point Dr.  
El Paso, TX 79938

**EQUITY SECURITY HOLDERS  
ALL UNSECURED CREDITORS  
ALL SECURED CREDITORS  
ALL PARTIES IN INTEREST**

/s/ Michael R. Nevarez

By: **MICHAEL R. NEVAREZ**

Official Form 417A (12/18)

[Caption as in Form 416A, 416B, or 416D, as appropriate]

## NOTICE OF APPEAL AND STATEMENT OF ELECTION

### Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Double H Transportation, LLC
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff

☐ Defendant

☐ Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

☒ Debtor

☐ Creditor

☐ Trustee

☐ Other (describe) \_\_\_\_\_

### Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: Order Denying Confirmation of First Amended Plan of Reorganization
2. State the date on which the judgment, order, or decree was entered: 05/14/2021

### Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

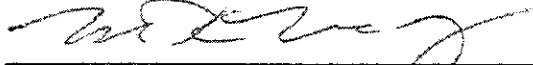
2. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

**Part 5: Sign below**



Date: 5-27-2021

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney (or appellant(s) if not represented by an attorney):

Michael R. Nevarez

The Nevarez Law Firm, P.C.

P.O. Box 12247, El Paso, TX 79913

(915) 225-2255

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]



**The relief described hereinbelow is SO ORDERED.**

**Signed May 13, 2021.**

**H. CHRISTOPHER MOTT  
UNITED STATES BANKRUPTCY JUDGE**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

IN RE: §  
DOUBLE H TRANSPORTATION LLC § CASE NO. 20-31055-hcm  
Debtor. § (Chapter 11)

**ORDER DENYING CONFIRMATION  
OF FIRST AMENDED PLAN OF REORGANIZATION**

On May 13, 2021, the Court conducted a hearing on confirmation of the First Amended Plan of Reorganization for Small Business Under Chapter 11 Subchapter V dated March 19, 2021 ("Amended Plan") (dkt# 97) filed by Double H Transportation LLC ("Debtor"). MHC Financial Services ("MHC") filed an objection to the Amended Plan ("MHC Objection") (dkt# 110) and Engs Commercial Finance Co. ("Engs") filed an objection, as amended, to the Amended Plan ("Engs Objection") (dkt# 118, 121). Appearing at the hearing were counsel for the Debtor, the members of the Debtor, counsel for MHC, counsel for Engs, counsel for the U.S. Trustee, and the Subchapter V trustee ("Trustee") appointed in the Debtor's case.



The Court has reviewed and considered the Amended Plan, the MHC Objection, the Engs Objection, the Ballot Summary (dkt# 113), the Memorandum of Legal Authorities filed by the Debtor (dkt# 115), the evidence, the record in this bankruptcy case, and the arguments and statements of counsel. For the reasons stated by the Court on the record at the hearing on May 13, 2021, the Court finds that confirmation of the Amended Plan should be denied and that the following Order should be entered.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that confirmation of the First Amended Plan of Reorganization for Small Business Under Chapter 11 Subchapter V dated March 19, 2021 ("Amended Plan") (dkt# 97) filed by the Debtor is hereby DENIED.

# # #

Official Form 417A (12/18)

*[Caption as in Form 416A, 416B, or 416D, as appropriate]*

## NOTICE OF APPEAL AND STATEMENT OF ELECTION

### **Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): Double H Transportation, LLC
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- ☐ Plaintiff  
☐ Defendant  
☐ Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

- ☒ Debtor  
☐ Creditor  
☐ Trustee  
☐ Other (describe) \_\_\_\_\_

### **Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: Order Converting Case To Chapter 7
2. State the date on which the judgment, order, or decree was entered: 05/14/2021

### **Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

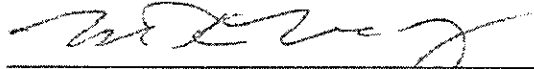
1. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

**Part 5: Sign below**



Date: 5-27-2021

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney  
(or appellant(s) if not represented by an attorney):  
Michael R. Nevarez

The Nevarez Law Firm, P.C.  
P.O. Box 12247, El Paso, TX 79913  
(915) 225-2255

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]



**The relief described hereinbelow is SO ORDERED.**

**Signed May 13, 2021.**

  
H. CHRISTOPHER MOTT  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

IN RE: §  
DOUBLE H TRANSPORTATION LLC § CASE NO. 20-31055-hcm  
Debtor. § (Chapter 11)

**ORDER CONVERTING CASE TO CHAPTER 7**

On May 13, 2021, the Court conducted a hearing on confirmation of the First Amended Plan of Reorganization for Small Business Under Chapter 11 Subchapter V Dated March 19, 2021 ("Amended Plan") (dkt# 97) filed by Double H Transportation LLC ("Debtor"). At the conclusion of the hearing, the Court denied confirmation of the Amended Plan.

The Court has previously entered an Order Denying Confirmation of Plan of Reorganization and Setting Case Deadlines, Combined with Notice Thereof on February 11, 2021 ("Order") (dkt# 84) in this Chapter 11 case. In part, the Order provided that if the Court denied confirmation of the Amended Plan, it would constitute "cause" under 11 U.S.C. § 1112(b)(1), § 1112(b)(4)(E) and § 1112(b)(4)(J) for *sua sponte* conversion of this Chapter 11 bankruptcy case to Chapter 7 or dismissal of this bankruptcy case with

prejudice, given the Debtor's prior Chapter 11 case no. 19-31830 which was previously dismissed by the Court.

Given the Court's denial of confirmation of the Amended Plan filed by the Debtor on May 13, 2021, cause exists under 11 U.S.C. § 1112(b)(1) to convert this Chapter 11 bankruptcy case to Chapter 7 or dismiss this bankruptcy case. For the reasons stated by the Court on the record at the May 13, 2021 hearing, the Court finds that conversion of this Chapter 11 case to Chapter 7 is in the best interests of creditors and the estate under 11 U.S.C. § 1112(b)(1), and the following Order should be entered.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

1. This Chapter 11 case of the Debtor is hereby converted to a case under Chapter 7.

2. Within 14 days after entry of this Order, the Debtor shall file amended schedules indicating any change to the creditors list, schedules, and statement of financial affairs as may be applicable, or amend such items to reflect any changes, including but not limited to the inclusion of any property acquired or disposed of since the entry of the order for relief under Chapter 11, in accordance with Local Bankruptcy Rule 1019. If no amendments are necessary, the Debtor shall file a certificate to that effect within such 14-day period.

3. Within 14 days after entry of this Order, the Debtor shall file a schedule of unpaid debts incurred after commencement of the Chapter 11 case, in accordance with Rule 1019(5) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules").

4. Within 30 days after entry of this Order, the Debtor shall file and transmit to the U.S. Trustee a final report and account, in accordance with Bankruptcy Rule 1019(5).

###

Official Form 417A (12/18)

*[Caption as in Form 416A, 416B, or 416D, as appropriate]*

## NOTICE OF APPEAL AND STATEMENT OF ELECTION

### **Part 1: Identify the appellant(s)**

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Double H Transportation, LLC
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For appeals in an adversary proceeding.

☐ Plaintiff

☐ Defendant

☐ Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

☒ Debtor

☐ Creditor

☐ Trustee

☐ Other (describe) \_\_\_\_\_

### **Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: Dismissed Order Granting Omnibus Objection To Class 4 Claims, with Notice Thereof
2. State the date on which the judgment, order, or decree was entered: 05/14/2021

### **Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):


1. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Part 5: Sign below**



Date: 5-27-2021

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney  
(or appellant(s) if not represented by an attorney):  
Michael R. Nevarez

The Nevarez Law Firm, P.C.  
P.O. Box 12247, El Paso, TX 79913  
(915) 225-2255

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[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

Objection dismissed without prejudice as case has been converted to Chapter 7.



SO ORDERED.

SIGNED this 14th day of May, 2021.

H. CHRISTOPHER MOTT  
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

In re:

DOUBLE H TRANSPORTATION, LLC,  
  
DEBTOR.

CASE NO: 20-31055-hcm

CHAPTER 11 SUBCHAPTER V

**ORDER GRANTING OMNIBUS OBJECTION TO CLASS 4 CLAIMS,  
WITH NOTICE THEREOF**

ON THIS DAY the Court considered the Omnibus Objection To Class 4 Claims, With Notice Thereof, filed by the Debtor, Double H Transportation, LLC, by and through the Debtor's counsel of record. After considering the Objection, the Court finds good cause that the claim be denied, by the U.S. Bankruptcy Court for the Western District of Texas.

**IT IS THEREFORE ORDERED** that said Omnibus Objection To Class 4 Claims, With Notice Thereof be and is granted.

**IT IS THEREFORE FURTHER ORDERED** that any and all claims and interests of



the following Creditors are hereby denied, dismissed and disallowed:

- a. Cedar Advance LLC;
- b. Element Transportation, LLC;
- c. ENG Commercial Finance;
- d. ENG Commercial Finance;
- e. Fox Capital 2 Group;
- f. Melek;
- g. Platinum Rapid Funding Group;
- h. Queen Funding LLC;
- i. TD Auto Finance;
- j. NYS Thruway Authority; and,
- k. New Jersey Turnpike Authority;

###  
The Nevarez Law Firm, PC  
P.O. Box 12247  
El Paso, Texas 79912  
Telephone: (915) 225-2255  
Facsimiles: (915) 845-3405  
Email: [MNevarez@LawOfficesMRN.com](mailto:MNevarez@LawOfficesMRN.com)

**CLAIMANTS:**  
Cedar Advance LLC  
25 Robert Pitt Drive, Suite 204  
Monsey, NY 10952

Element Transportation, LLC  
c/o Michael W. Zientz  
Mackie Wolf Zientz & Mann, P.C.  
Parkway Office Center, Suite 900  
14160 North Dallas Parkway  
Dallas, TX 75254

ENG Commercial Finance  
2441 Warrenville Road, Suite 310  
Lisle, IL 60532

Fox Capital 2 Group  
65 Broadway, Suite 804  
New York, NY 10005

Melek  
1155 N. Zaragoza Rd.  
El Paso, TX 79907

Platinum Rapid Funding Group  
348 RXR Plaza  
Uniondale, NY 11556

Queen Funding LLC  
c/o Weinstein & Weinstein  
68-15 Main Street, 2nd Fl  
Flushing, NY 11367

TD Auto Finance  
Attn: Bankruptcy  
P.O. Box 9223  
Farmington, MI 48333

NYS Thruway Authority  
200 Southern Blvd.  
P.O. Box 189  
Albany, NY 12201

New Jersey Turnpike Authority  
1 Turnpike Plaza  
Woodbridge, NJ 07095